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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,747	04/25/2001	Louis Bouchard	AVALUC-01800	7367

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HAVERSTOCK & OWENS LLP  
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EXAMINER
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PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2151

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/842,747

Applicant(s)

BOUCHARD, LOUIS

Examiner

Hassan Phillips

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to communications filed January 30, 2007.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on January 30, 2007 has been entered.

#### ***Response to Arguments***

3. Applicant's arguments filed January 30, 2007 have been fully considered but they are not persuasive. Applicant argued Stein does not teach that the mail server 110 independently determines when to transmit the mailbox content list to the mobile device 200. Examiner respectfully submits applicant has misinterpreted the prior art of record.

4. With regards to applicant's remarks, examiner submits Cloutier teaches a mail server (120) independently determining when to transmit a message alert to a mobile device (120), (Cloutier, col. 3, line 62- col. 4, line 14). Although Cloutier does not

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expressly teach the message alert being a mailbox content list, mailbox content list were well known in the art as disclosed by Stein whose teachings disclose transmitting a mailbox content list from a mail server to a mobile device, (Stein, col. 3, lines 8-39). Thus, examiner maintains given the teachings of Stein, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Cloutier to disclose the mail server independently determines when to transmit the mailbox content list to the mobile device in order to provide a user receiving the message alert, the flexibility to select which message the user desires to receive, in the case that multiple messages were available for the user on the server, (Stein, col. 3, lines 24-32).

5. Accordingly the references supplied by the Examiner in the previous office action covers the claimed limitations. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

6. Furthermore, applicant's arguments are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 4-7, 9-14, 16-20, 22-24, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Amin, U.S. Patent 6,006,087.

9. In considering claims 1, 7, 14, and 19, Amin teaches a system and method of utilizing a push model to provide access to a message list in one or more of a voice, a fax, an e-mail and a unified mailbox through a wireless network, the method comprising the steps of:

- a. determining if an updated mailbox content list is to be transmitted by a server (102) to a wireless device (10), wherein the server independently determines if and when to transmit the updated mailbox content list, (col. 5, lines 13-31);
- b. forming a first communication link through a wireless network between the server and the wireless device, (col. 5, lines 13-31);
- c. transmitting the updated mailbox content list from the server to the wireless device over the first communication link, (col. 5, lines 13-31);
- d. automatically receiving the updated mailbox content list by the wireless device from the server through the first communication link, (col. 5, lines 13-31);
- e. disconnecting the first communication link, (col. 5, lines 13-31 and lines 4-12);
- f. scrolling through the updated mailbox content list and selecting a message therefrom with the wireless device, (col. 4, line 60-col. 5, line 12);

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- g. forming a second communication link through the wireless network thereby linking the wireless device and the server, (col. 4, line 60-col. 5, line 12);
- h. selectively receiving the message on the wireless device from the server over the second communication link, (col. 4, line 60-col. 5, line 12);
- i. providing the message to a user of the wireless device, (col. 4, line 60-col. 5, line 12).

10. In considering claims 2, 9, and 20, Amin teaches a new message notification, including the updated content list, (col. 4, lines 44-59).

11. In considering claims 4, 16, and 22, Amin teaches scrolling through the updated mailbox content list without accessing the wireless network, (col. 4, line 44-col. 5, line 3).

12. In considering claims 5, 17, and 23, Amin further teaches the user issuing a command using the wireless device, (col. 4, line 60-col. 5, line 12).

13. In considering claims 6, 18, and 24, Amin further teaches the server playing the message according to a command given by the user, (col. 5, lines 4-12).

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14. In considering claim 10, Amin teaches after being sent by the server, the new message notification and the updated content list can be viewed by a user with the wireless device, (col. 4, lines 44-59).

15. In considering claim 11, Amin teaches the user may scroll through the updated mailbox content list with the wireless device, (col. 4, line 44-col. 5, line 3).

16. In considering claim 12, Amin further teaches a user selecting a message by issuing a command to the server, (col. 4, line 60-col. 5, line 12).

17. In considering claim 13, Amin further teaches the server delivering the message selected by the user and the message is played for the user by the wireless device, (col. 5, lines 4-12).

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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19. Claims 1, 2, 4-7, 9-14, 16-20, 22, 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein et al (hereinafter Stein), U.S. Patent 6,289,212 (supplied by Applicant).

20. In considering claims 1, 7, 14, and 19, Cloutier teaches a method and system for utilizing a push model to provide access to messages in one or more of a voice, a fax, an e-mail and a unified mailbox through a wireless network, the method comprising the steps of:

a. determining if a message alert is to be transmitted by a server (120) to a wireless device (170), wherein the server independently determines if and when to transmit the message alert, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

b. forming a first communication link through a wireless network between the server and the wireless device, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

c. transmitting the message alert from the server to the wireless device over the first communication link, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);

d. automatically receiving the message alert by the wireless device from the server through the first communication link, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);



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- e. disconnecting the first communication link, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);
- f. viewing the alert on the wireless device, (col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, also see Fig. 1);
- g. forming a second communication link through the wireless network thereby linking the wireless device and the server for receiving a message, (col. 2, lines 41-45);
- h. and providing the message to the user, (col. 2, lines 41-45).

Although the method of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose: the message alert being a mailbox content list; selecting a message with the wireless device; and receiving the message over a wireless network.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising: receiving a mailbox content list from a server over a wireless network, (col. 3, lines 8-39); scrolling through the mailbox content list with a wireless device, (col. 3, lines 8-39); and selecting a message with the wireless device, (col. 3, lines 8-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show the message alert being a mailbox content list that a user could scroll through on a wireless device in order to select a message to be received over the wireless network. This would have provided the user the flexibility to select which message the user desired to receive, in the case

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that multiple messages were available for the user on the server, (Stein, col. 3, lines 24-32).

21. In considering claims 2, 9, and 20, Cloutier teaches a new message notification. See col. 2, lines 30-41.

22. In considering claims 4, 16, and 22, Cloutier teaches viewing the alert without accessing the wireless network. See col. 2, lines 30-41.

23. In considering claims 5, 17, and 23, Cloutier further teaches the user issuing a command using the wireless device. See col. 6, lines 50-54.

24. In considering claims 6, 18, and 24, Cloutier further teaches the server playing the message according to a command given by the user. See col. 6, lines 54-61.

25. In considering claim 10, the system of Cloutier provides a means for viewing a new message notification and an updated content list by a user with the wireless device. See col. 2, lines 30-41.

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26. In considering claim 11, although the system of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose: a) Scrolling through a mailbox content list.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising: a) Scrolling through a mailbox content list with a wireless device, (col. 3, lines 24-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show scrolling through an updated mailbox content list with the wireless device. This would have provided the user the flexibility to select which message the user desired to receive, in the case that multiple messages were available for the user on the server along with the new message, Stein, col. 3, lines 24-32. 15.

27. In considering claim 12, Cloutier further teaches a user selecting a message by issuing a command to the server. See col. 6, lines 50-54.

28. In considering claim 13, Cloutier further teaches the server delivering the message selected by the user and the message being played for the user by the wireless device. See col. 6, lines 54-61.

29. Claims 3, 8, 15, 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin in view of the Applicants Admitted Prior Art (AAPA).

30. In considering claims 3, 8, 15, and 21, Amin discloses a wireless network, (col. 2, lines 35-39).

Although the disclosed teachings of Amin show substantial features of the claimed invention, they fail to expressly disclose the wireless network having a low data-bandwidth, and a high-data latency.

Nevertheless, it was well known in the art at the time of the present invention for wireless networks to have a low data-bandwidth, and a high-data latency. This was admitted by the applicant in the specification on page 1, line 33, and page 2, lines 1-5.

Thus, if not implicit in the teachings of Amin, given the teachings of the AAPA it would have been obvious to one of ordinary skill in the art to modify the teachings of Amin to show the wireless network having a low data-bandwidth, and a high-data latency. This would have advantageously utilized the wireless network disclosed by Amin in a fashion well known to those of ordinary skill in the art at the time of applicant's invention.

31. Claims 3, 8, 15, 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein, and further in view of the Applicants Admitted Prior Art (AAPA).

32. In considering claims 3, 8, 15, and 21, although the combined methods of Cloutier and Stein show substantial features of the claimed invention, they fail to

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expressly disclose the wireless network having a low data-bandwidth, and a high-data latency.

Nevertheless, it was well known in the art at the time of the present invention for wireless networks to have a low data-bandwidth, and a high-data latency. This was admitted by the applicant in the specification on page 1, line 33, and page 2, lines 1-5.

Thus, if not implicit in the teachings of Cloutier and Stein, given the teachings of the AAPA it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier and Stein to show the wireless network having a low data-bandwidth, and a high-data latency. This would have shown that the methods of Cloutier and Stein work in networks that were well known at the time of the present invention such as wireless networks with low data-bandwidth, and high-data latency.

### ***Conclusion***

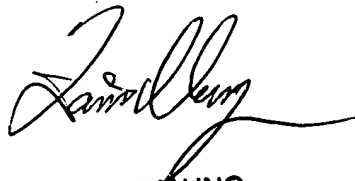
33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is 571-272-3940. The examiner can normally be reached on Mon-Fri (8am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HP/  
4/3/07



**ZARNI MAUNG**  
**SUPERVISORY PATENT EXAMINER**